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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,519	03/23/2004	Dennis A. Durbin	37955XFA	3397

7590 02/10/2006

John H. Sherman
c/o Legal Department
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EXAMINER


KIM, AHSHIK

ART UNIT PAPER NUMBER

2876

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/807,519	Applicant(s) DURBIN, DENNIS A.	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-21, 23-29 and 31-35 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-21 and 23-26 is/are allowed.
- 6) ☒ Claim(s) 27-29, 31 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Allowable Subject Matter***

1. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has
5 already been paid, applicant may request a refund or request that the fee be credited to a deposit
account. However, applicant may wait until the application is either found allowable or held
abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that
the previously submitted issue fee be applied. If abandoned, applicant may request refund or
credit to a specified Deposit Account.

10 2. The indicated allowability of claims 27, 31 are withdrawn in view of the newly
discovered reference(s) to Norris, et al. (US 4,656,524). Rejections based on the newly cited
reference(s) follow.

Claim Rejections - 35 USC § 102

15 3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
20 sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 27-29, 31, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by
Norris (US 4,656,524, hereinafter “Norris”).

Re claims 27-29, Norris discloses an electronic image capture device (see abstract; col. 2,
lines 8+) comprising a photosensitive subsystem including CCD 96 (col. 4, lines 46+); an
25 optical subsystem comprising optical components such as mirrors 100, 102 and lens 90 which

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are used in transmitting the optical information to the CCD (col. 4, line 46 – col. 5, line 6); a processing subsystem 228, 224 (col. 4, lines 10-17; col. 6, lines 7+); and a user feedback system 46 embodied as a CRT to facilitate user selection of a region of the field of view for processing during capture operation (col. 11 lines 50+; col. 12, lines 16-43). Utilizing CRT, a user can select
5 a region or a pattern he/she desires.

Re claims 31 and 33, CCD is a one-dimensional array of pixels (col. 8, lines 30+) or two dimensional array (col. 8, lines 42-46).

Re claims 34 and 35, the apparatus also contains a zoom capability (col. 1, lines 48-55).

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Allowable Subject Matter

5. Claims 14-21, 23-26 are allowed.

6. Claim 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. If amended to incorporate subject matter in 32 into the parent claim
15 (27), perhaps optical information may be further limited to 1D or 2D bar code.

7. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at an optical reader reading and processing 1-D or 2-D code. The apparatus is designed to capture a part (or slice) of the two-dimensional barcode. User is given an opportunity to accept the captured segment via feedback. The cited references achieve such
20 feature in automated manner. Therefore such functionality is neither disclosed nor suggested by the cited references.

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Conclusion

I. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available for Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions or access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim
Primary Examiner
Art Unit 2876
January 31, 2006